

REMARKS

At the time of the Office Action dated May 16, 2005, claims 1-18 were pending and rejected in this application.

CLAIMS 1-18 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY SMITH ET AL., U.S. PATENT PUBLICATION APPLICATION NO. 2002/00658899 (HEREINAFTER SMITH)

On pages two through six of the Office Action, the Examiner asserted that Smith discloses a system, method, and storage corresponding to that claimed. This rejection is respectfully traversed.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure of each element of a claimed invention in a single reference. As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference. That burden has not been discharged. Moreover, there are significant differences between Smith and the invention defined in independent claims 1, 6 and 13 that would preclude a factual determination that Smith identically describes the claimed invention within the meaning of 35 U.S.C. § 102. Furthermore, the Examiner neither clearly designated the teachings in Smith being relied upon nor clearly explained the pertinence

of Smith. In this regard, the Examiner's rejection under 35 U.S.C. § 102 also fails to comply with 37 C.F.R. § 1.104(c).¹

Claims 1, 6, and 13

In the statement of the rejection with regard to claim 1, the Examiner merely copied the language of claim 1 and asserted that the features recited therein are identically disclosed within paragraphs [0016], [0057], [0059], [0071], and [0072]. The Examiner, however, fails to clearly and specifically designate those teachings within the cited paragraphs being relied upon. Each of the cited paragraphs within Smith contains several disclosures, and Applicants have been improperly forced to guess as to what features in Smith the Examiner believes identically discloses the claimed features.

With regard to the features recited in claim 1, Applicants refer the Examiner to Fig. 1 of Applicants' disclosure. The features recited in claim 1 are as follows: (i) universal database connectivity driver (e.g., Data Access Middleware 180); (ii) database server (e.g., Back End DB 190); (iii) database proxy driver (e.g., Data Access Middleware Proxy 170); and database driven application (e.g., Application 160).

¹ 37 C.F.R. § 1.104(c) provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

On page two of the Office Action, the Examiner asserted that the claimed universal connectivity driver is disclosed in paragraphs [0071], [0072] and on page 3, the Examiner asserted that the claimed database proxy driver is disclosed by paragraphs [0057], [0059] of Smith. Applicants respectfully disagree with the Examiner's conclusion for several reasons. Referring to Fig. 3 of Smith (discussed in paragraphs [0057], [0059]), Smith teaches the edge cache 108 (presumably the Examiner's asserted database proxy driver) forwards transaction database requests to the origin site 104, and thus connects directly to origin site 104 (presumably corresponding to the claimed database server). In contrast, claim 1 recites that access to the database server from the database proxy driver is provided through the universal database connectivity driver. Since Fig. 3 and paragraphs [0057], [0059] of Smith do not disclose any intermediary between the edge cache 108 and the origin site 104, Smith fails to identically disclose the claimed invention.

Furthermore, with regard to the claimed connectivity driver, which is allegedly disclosed in paragraphs [0071], [0072] of Smith, a review of this citation only yields a teaching of "other driver embodiments, such as the ODBC standard, provide for both an isolation level and a concurrency level." This however, is not a teaching of a driver separate from the claimed database proxy driver (i.e., the alleged edge cache 108).

Still further, claim 1 recites that the database proxy driver has a second exposed interface that conforms with a first exposed interface of the universal database connectivity driver. Even

assuming arguendo that Smith discloses a driver separate from the database proxy driver, Smith fails to teach that each driver includes an exposed interface that conform with one another.

Independent claims 6 and 13 recite similar features to those discussed above with regard to claim 1 and are patentable over Smith at least on the same basis discussed above.

Claim 2

With regard to claim 2, the Examiner asserted that the features recited therein are identically disclosed in paragraph [0030] of Smith. Applicants respectfully disagree. Smith merely states that "[e]dge caches 108 include replicated data 120 and application logic 122." This teaching, however, is not comparable to the claimed feature that the universal database connectivity driver, database proxy driver and database driven application are disposed in an edge device.

The above argued differences between the claimed invention and the disclosure of Smith undermine the factual determination that Smith identically describes the claimed invention within the meaning of 35 U.S.C. § 102. Applicants, therefore, respectfully submit that the imposed rejection of claims 1-18 under 35 U.S.C. § 102 for anticipation based upon Choquier is not factually viable and, hence, solicit withdrawal thereof.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the

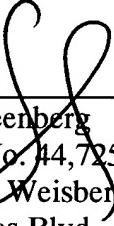
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Attorney Docket No.: RSW920010228US1 (7161-16U)

Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,


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